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20 *Counsel for Defendants*

21 UNITED STATES DISTRICT COURT  
22 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
23 OAKLAND DIVISION

24 STATE OF CALIFORNIA, *et al.*,

25 Plaintiffs,

26 v.

27 RYAN ZINKE, in his capacity as Secretary of the  
28 Interior, *et al.*,

Defendants.

No. 4:18-cv-05712-YGR  
(Consolidated With Case No. 4:18-cv-05984-  
YGR)

**DEFENDANTS' MOTION FOR A STAY OF  
PROCEEDINGS IN LIGHT OF LAPSE OF  
APPROPRIATIONS**

**MOTION FOR A STAY OF PROCEEDINGS  
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The United States of America hereby moves for a stay of all deadlines in the above-captioned case.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice (“DOJ”) expired and appropriations to DOJ lapsed. The same is true for several other Executive agencies, including the federal Defendant agencies in this case (the U.S. Department of the Interior and Bureau of Land Management). Neither undersigned counsel nor the Defendant agencies know when funding will be restored by Congress.

2. Absent an appropriation, DOJ attorneys and employees of the Defendant agencies are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. As stated in their December 31, 2018, Joint Case Management Statement, ECF No. 77, the parties originally agreed that Defendants would lodge the administrative record for the Revision/Repeal Rule with the Court, and serve it on the parties for review on February 15, 2019. The Court adopted this deadline in its January 16, 2019 Order Re: Parties’ Joint Case Management Statement. ECF No. 81. Due to the lapse of appropriations and subsequent government shutdown, Defendants can no longer meet that deadline. Since December 21, 2018, for over a month, employees of the Defendant agencies have been prohibited by law from compiling, reviewing, and preparing to produce the Revision/Repeal Rule administrative record.

4. In its January 16, 2019 Order, the Court also set deadlines for executive summary letter briefs, which are due on January 24 and February 4 respectively for Plaintiffs and Defendants/Intervenor-Defendants, and a status conference, which is set for February 11. ECF No. 81. De-

1 defendants and their counsel are prohibited by law from working on Defendants' letter brief and preparing  
2 for the status conference during the shutdown.

3 5. Additionally, the inability to continue work on compiling the Revision/Repeal Rule ad-  
4 ministrative record affects the parties' ability to prepare meaningful letter briefs. The Revision/Repeal  
5 Rule administrative record forms the factual basis of the parties' claims and defenses. Without an op-  
6 portunity to review the complete record, the parties must speculate as to the content of their future mo-  
7 tions for summary judgment.  
8

9 6. Because Defendants and undersigned counsel have been prohibited since December 21,  
10 2018 from working to compile the Revision/Repeal Rule administrative record, and are also currently  
11 prohibited from preparing the requested letter brief and preparing for the status conference, Defendants  
12 request a stay of all deadlines in the above-captioned case until Congress has restored appropriations to  
13 DOJ and Defendant agencies.  
14

15 7. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as  
16 Congress has appropriated funds for DOJ and Defendant agencies. In that notice, Defendants will also  
17 provide a new proposed deadline for the completion of the administrative record.

18 8. In the alternative, should the Court refuse to stay the letter brief and status conference  
19 deadlines at this time, the United States requests an extension of time to lodge the administrative record  
20 equal to the total length of the lapse of appropriations.  
21

22 9. Citizens Group and State plaintiffs oppose this motion and intend to file a response. In-  
23 tervenors have no objection to this motion.

24 Therefore, although we greatly regret any disruption caused to the Court and the other litigants,  
25 the Government hereby moves for a stay of all deadlines in this case until Department of Justice  
26 attorneys and Defendant employees are permitted to resume their usual functions.  
27

28 Respectfully submitted this 23rd day of January, 2019.  
*Defendants' Motion to Stay*  
*California v. Zinke*, No. 4:18-cv-05712-YGR

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